

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JUDY RAE WINEGAR,
a.k.a. JUDY WINEGAR
305 56th Court
Pleasant Hill, IA 50327

Registered Nurse License No. 637123

Respondent.

Case No. 2008-202

OAH No.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 26, 2008.

It is so ORDERED August 27, 2008.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

EDMUND G. BROWN JR., Attorney General
of the State of California
ARTHUR D. TAGGART
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Attorneys for Complainant

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Case No. 2008-202

OAH No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs. She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Geoffrey S. Allen, Deputy Attorney General.

2. Judy Rae Winegar, also known as Judy Winegar, (Respondent) is represented in this proceeding by attorney David J. Frankenberger, whose address is Ericksen, Arbuthnot, Kilduff, Day and Lindstrom, Inc., 2440 West Shaw Ave., Suite 101, Fresno, California, 93711-3300.

3. On or about May 10, 2004, the Board issued Registered Nurse License Number 637123 (License) to Respondent. Respondent's License was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2005.

JURISDICTION

4. Accusation No. 2008-202 (Accusation) was filed before the Board, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 17, 2008. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of the Accusation is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the Accusation. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the Accusation, agrees that cause exists for discipline and hereby surrenders her License for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her License without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that RN License No. 637123, issued to Respondent Judy Rae Winegar is surrendered and accepted by the Board of Registered Nursing.

13. The surrender of Respondent's License and the acceptance of the surrendered License by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's License history with the Board.

14. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

1 15. Respondent shall cause to be delivered to the Board both her pocket
2 license and wall certificate on or before the effective date of the Decision and Order.

3 16. Respondent understands and agrees that if she ever applies for licensure or
4 petitions for reinstatement in the State of California, the Board shall treat it as a petition for
5 reinstatement. Respondent must comply with all the laws, regulations and procedures for
6 licensure in effect at the time the application or petition is filed, and all of the charges and
7 allegations contained in the Accusation shall be deemed to be true, correct and admitted by
8 Respondent when the Board determines whether to grant or deny the application or petition.

9 17. Upon reinstatement of the license, Respondent shall pay to the Board costs
10 associated with its investigation and enforcement pursuant to Business and Professions Code
11 section 125.3 in the amount of eight thousand, nine hundred, two dollars and seventy-five cents
12 (\$8,902.75). Respondent shall be permitted to pay these costs in a payment plan approved by the
13 Board.

14 18. Should Respondent ever apply or reapply for a new license or certification,
15 or petition for reinstatement of a license, by any other health care licensing agency in the State of
16 California, all of the charges and allegations contained in the Accusation shall be deemed to be
17 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
18 proceeding seeking to deny or restrict licensure.

19 19. Respondent shall not apply for licensure or petition for reinstatement for
20 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

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DATED: 7/3/08

I have read and fully discussed with Respondent, Judy Rae Winegar, the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 6-25-08

THE JOURNAL OF LAW, ECONOMICS, & ORGANIZATION, V16 N1, P1-24, WINTER 2000 • ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 7/28/08

EDMUND G. BROWN JR., Attorney General
of the State of California

ARTHUR D. TAGGART
Supervising Deputy Attorney General



GEOFFREY S. ALLEN
Deputy Attorney General
Attorneys for Complainant

Exhibit A
Accusation No. 2008-202

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
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7 Attorneys for Complainant
8

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11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 JUDY RAE WINEGAR,
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14 305 56th Court
Pleasant Hill, IA 50327

15 Registered Nurse License No. 637123
16

17 Respondent.

Case No. 2008-202

18 ACCUSATION

19 Complainant alleges:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about May 10, 2004, the Board issued Registered Nurse License
24 Number 637123 to Judy Rae Winegar, also known as Judy Winegar ("Respondent").
25 Respondent's registered nurse license was in full force and effect at all times relevant to the
26 charges brought herein and expired on September 30, 2005.

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. At all times herein mentioned, Respondent was employed as a registered nurse by COMFORCE, a traveling nurse staffing agency. Respondent was assigned to work from approximately 0730 hours through 1950 hours on March 9, 2005, in the High-Risk Antepartum Unit ("HRAU")¹ of Community Medical Center ("CMC") in Fresno, California.

9. On or about March 6, 2005, Patient A, 43 years of age, was admitted to the HRAU at approximately 29 weeks gestation with spontaneous rupture of the amniotic membranes. The patient's past medical history included risk factors of two previous c-section deliveries, one previous preterm delivery of an infant with hydrocephalous, and having suffered seizures during her last delivery.

10. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about March 9, 2005, while on duty as a registered nurse in the HRAU of CMC, Respondent was guilty of gross negligence in her care of Patient A within the meaning of Regulation 1442, as follows:

a. Respondent failed to properly chart Patient A's fetal assessments.

b. Respondent failed to conduct a review of the external fetal monitoring strip for Patient A at the start of her shift.

c. Respondent failed to physically visit Patient A to perform her hourly assessments, as further set forth in paragraph 11(b) below².

d. Respondent falsely reassured her colleague assuming care that Patient A and the fetus were stable and could be transferred to a lower level of care as soon as a bed was available.

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1. The HRAU at CMC is responsible for the care of patients with high-risk pregnancies.

2. The performance of hourly assessments was mandated by CMC for patients in the HRAU.

1 e. Respondent failed to report multiple occasions where there were changes
2 in Patient A's fetal condition, to intervene according to current guidelines, and to make adequate
3 preparations for an expedited delivery and resuscitation of a severely compromised preterm
4 neonate.

5 SECOND CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct)

7 11. Complainant incorporates by reference as though fully set forth herein the
8 allegations contained in paragraphs 8 and 9 above.

9 12. Respondent is subject to disciplinary action pursuant to Code section
10 2761, subdivision (a); in that on or about March 9, 2005, while on duty as a registered nurse in
11 the HRAU at CMC, Respondent committed the following acts constituting unprofessional
12 conduct:

13 a. Respondent failed to be truthful about her whereabouts when charting
14 entries with regard to Patient A. Respondent claimed to have made the entries at bedside when
15 they were actually made at remote locations.

16 b. Complainant incorporates by reference as though fully set forth herein the
17 allegations contained in paragraph 10 above.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 637123, issued
22 to Judy Rae Winegar, also known as Judy Winegar;

23 2. Ordering Judy Rae Winegar, also known as Judy Winegar, to pay the
24 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
25 case, pursuant to Business and Professions Code section 125.3; and

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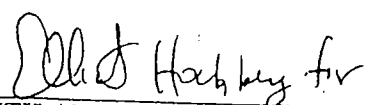
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3. Taking such other and further action as deemed necessary and proper.

DATED: 1/2/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant